

REMARKS

Summary of the Office Action

Claims 1-45 were pending in this application.

The Examiner rejected claims 1-22 and 33-45 under 35 U.S.C. § 103(a) as allegedly being obvious from Beard U.S. Patent No. 7,302,316 ("Beard") in view of Dapp et al. U.S. Patent No. 7,415,331 ("Dapp"). Claims 23-32* were rejected under 35 U.S.C. § 103(a) as allegedly being obvious from Beard.

The Examiner's rejections are respectfully traversed.

Applicant's Reply

Applicant has proposed cancelling claims 23-32 without prejudice.

Claims 1-22 and 33-45

Applicant respectfully submits that Dapp is not prior art with respect to claims 1-22 and 33-45. Dapp was filed on July 25, 2005. The present application is a national stage entry of PCT/US04/35115, filed October 22, 2004. As such, this application is entitled to an effective filing date at least as early as October 22, 2004 under 35 U.S.C. § 371(c). Dapp, therefore, is not prior art. For at least this reason alone, applicant respectfully submits that the rejection of claims 1-22 and 33-45 under 35 U.S.C. § 103(a) as allegedly being obvious from Beard in view of Dapp is improper and should be withdrawn.

* Although the Office Action indicates that all claims are rejected under the combination of Beard and Dapp, on pages 4 and 5 of the Detailed Action the Examiner relies only on Beard in the rejection of claims 23-32.

Application No. 10/575,803
Reply dated May 24, 2010
Reply to Office Action of February 22, 2010

During a telephonic interview between the undersigned and the Examiner on May 17, 2010, the Examiner agreed with applicant that Dapp is not available as prior art with respect to claims 1-22 and 33-45.

Conclusion

Applicant respectfully submits that this application, if amended as proposed, would be in condition for allowance. Reconsideration, entry of the proposed amendments, and prompt allowance of this application are accordingly respectfully requested.

Respectfully submitted,

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